

FIRST REGULAR SESSION

# HOUSE BILL NO. 563

## 95TH GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES McCLANAHAN (Sponsor), JONES (117), WETER, FISHER (125), McGHEE, KIRKTON, STORCH, HUGHES, OXFORD, SATER, ALLEN, SKAGGS, SCHIEFFER, ATKINS, LAMPE, HARRIS AND WALTON GRAY (Co-sponsors).

0971L.01I

D. ADAM CRUMBLISS, Chief Clerk

---

### AN ACT

To repeal sections 334.104, 334.506, and 334.613, RSMo, and to enact in lieu thereof three new sections relating to physical therapy services.

---

*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 334.104, 334.506, and 334.613, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 334.104, 334.506, and 334.613, to read as follows:

334.104. 1. A physician may enter into collaborative practice arrangements with registered professional nurses. Collaborative practice arrangements shall be in the form of written agreements, jointly agreed-upon protocols, or standing orders for the delivery of health care services. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer or dispense drugs, **prescribe therapies**, and provide treatment as long as the delivery of such health care services is within the scope of practice of the registered professional nurse and is consistent with that nurse's skill, training and competence.

2. Collaborative practice arrangements, which shall be in writing, may delegate to a registered professional nurse the authority to administer, dispense or prescribe drugs, **prescribe therapies**, and provide treatment if the registered professional nurse is an advanced practice nurse as defined in subdivision (2) of section 335.016, RSMo. Collaborative practice arrangements may delegate to an advanced practice registered nurse, as defined in section 335.016, RSMo, the authority to administer, dispense, or prescribe controlled substances listed

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15 in Schedules III, IV, and V of section 195.017, RSMo; except that, the collaborative practice  
16 arrangement shall not delegate the authority to administer any controlled substances listed in  
17 schedules III, IV, and V of section 195.017, RSMo, for the purpose of inducing sedation or  
18 general anesthesia for therapeutic, diagnostic, or surgical procedures. Schedule III narcotic  
19 controlled substance prescriptions shall be limited to a one hundred twenty-hour supply without  
20 refill. Such collaborative practice arrangements shall be in the form of written agreements,  
21 jointly agreed-upon protocols or standing orders for the delivery of health care services.

22 3. The written collaborative practice arrangement shall contain at least the following  
23 provisions:

24 (1) Complete names, home and business addresses, zip codes, and telephone numbers  
25 of the collaborating physician and the advanced practice registered nurse;

26 (2) A list of all other offices or locations besides those listed in subdivision (1) of this  
27 subsection where the collaborating physician authorized the advanced practice registered nurse  
28 to prescribe;

29 (3) A requirement that there shall be posted at every office where the advanced practice  
30 registered nurse is authorized to prescribe, in collaboration with a physician, a prominently  
31 displayed disclosure statement informing patients that they may be seen by an advanced practice  
32 registered nurse and have the right to see the collaborating physician;

33 (4) All specialty or board certifications of the collaborating physician and all  
34 certifications of the advanced practice registered nurse;

35 (5) The manner of collaboration between the collaborating physician and the advanced  
36 practice registered nurse, including how the collaborating physician and the advanced practice  
37 registered nurse will:

38 (a) Engage in collaborative practice consistent with each professional's skill, training,  
39 education, and competence;

40 (b) Maintain geographic proximity; and

41 (c) Provide coverage during absence, incapacity, infirmity, or emergency by the  
42 collaborating physician;

43 (6) A description of the advanced practice registered nurse's controlled substance  
44 prescriptive authority in collaboration with the physician, including a list of the controlled  
45 substances the physician authorizes the nurse to prescribe and documentation that it is consistent  
46 with each professional's education, knowledge, skill, and competence;

47 (7) A list of all other written practice agreements of the collaborating physician and the  
48 advanced practice registered nurse;

49 (8) The duration of the written practice agreement between the collaborating physician  
50 and the advanced practice registered nurse; and

51 (9) A description of the time and manner of the collaborating physician's review of the  
52 advanced practice registered nurse's prescribing practices. The description shall include  
53 provisions that the advanced practice registered nurse shall submit documentation of the  
54 advanced practice registered nurse's prescribing practices to the collaborating physician within  
55 fourteen days. The documentation shall include, but not be limited to, a random sample review  
56 by the collaborating physician of at least twenty percent of the charts **for controlled substances**  
57 and medications prescribed.

58 4. The state board of registration for the healing arts pursuant to section 334.125 and the  
59 board of nursing pursuant to section 335.036, RSMo, may jointly promulgate rules regulating  
60 the use of collaborative practice arrangements. Such rules shall be limited to specifying  
61 geographic areas to be covered, the methods of treatment **and therapies** that may be covered by  
62 collaborative practice arrangements and the requirements for review of services provided  
63 pursuant to collaborative practice arrangements including delegating authority to prescribe  
64 controlled substances. Any rules relating to dispensing or distribution of medications or devices  
65 by prescription or prescription drug orders under this section shall be subject to the approval of  
66 the state board of pharmacy. Any rules relating to dispensing or distribution of controlled  
67 substances by prescription or prescription drug orders under this section shall be subject to the  
68 approval of the department of health and senior services and the state board of pharmacy. In  
69 order to take effect, such rules shall be approved by a majority vote of a quorum of each board.  
70 Neither the state board of registration for the healing arts nor the board of nursing may separately  
71 promulgate rules relating to collaborative practice arrangements. Such jointly promulgated rules  
72 shall be consistent with guidelines for federally funded clinics. The rulemaking authority granted  
73 in this subsection shall not extend to collaborative practice arrangements of hospital employees  
74 providing inpatient care within hospitals as defined pursuant to chapter 197, RSMo.

75 5. The state board of registration for the healing arts shall not deny, revoke, suspend or  
76 otherwise take disciplinary action against a physician for health care services delegated to a  
77 registered professional nurse provided the provisions of this section and the rules promulgated  
78 thereunder are satisfied. Upon the written request of a physician subject to a disciplinary action  
79 imposed as a result of an agreement between a physician and a registered professional nurse or  
80 registered physician assistant, whether written or not, prior to August 28, 1993, all records of  
81 such disciplinary licensure action and all records pertaining to the filing, investigation or review  
82 of an alleged violation of this chapter incurred as a result of such an agreement shall be removed  
83 from the records of the state board of registration for the healing arts and the division of  
84 professional registration and shall not be disclosed to any public or private entity seeking such  
85 information from the board or the division. The state board of registration for the healing arts  
86 shall take action to correct reports of alleged violations and disciplinary actions as described in

87 this section which have been submitted to the National Practitioner Data Bank. In subsequent  
88 applications or representations relating to his **or her** medical practice, a physician completing  
89 forms or documents shall not be required to report any actions of the state board of registration  
90 for the healing arts for which the records are subject to removal under this section.

91 6. Within thirty days of any change and on each renewal, the state board of registration  
92 for the healing arts shall require every physician to identify whether the physician is engaged in  
93 any collaborative practice agreement, including collaborative practice agreements delegating the  
94 authority to prescribe controlled substances, or physician assistant agreement and also report to  
95 the board the name of each licensed professional with whom the physician has entered into such  
96 agreement. The board may make this information available to the public. The board shall track  
97 the reported information and may routinely conduct random reviews of such agreements to  
98 ensure that agreements are carried out for compliance under this chapter.

99 7. Notwithstanding any law to the contrary, a certified registered nurse anesthetist as  
100 defined in subdivision (8) of section 335.016, RSMo, shall be permitted to provide anesthesia  
101 services without a collaborative practice arrangement provided that he or she is under the  
102 supervision of an anesthesiologist or other physician, dentist, or podiatrist who is immediately  
103 available if needed. Nothing in this subsection shall be construed to prohibit or prevent a  
104 certified registered nurse anesthetist as defined in subdivision (8) of section 335.016, RSMo,  
105 from entering into a collaborative practice arrangement under this section, except that the  
106 collaborative practice arrangement may not delegate the authority to prescribe any controlled  
107 substances listed in Schedules III, IV, and V of section 195.017, RSMo.

108 8. A collaborating physician shall not enter into a collaborative practice arrangement  
109 with more than three full-time equivalent advanced practice registered nurses. This limitation  
110 shall not apply to collaborative arrangements of hospital employees providing inpatient care  
111 service in hospitals as defined in chapter 197, RSMo, or population-based public health services  
112 as defined by 20 CSR 2150-5.100 as of April 30, 2008.

113 9. It is the responsibility of the collaborating physician to determine and document the  
114 completion of at least a one-month period of time during which the advanced practice registered  
115 nurse shall practice with the collaborating physician continuously present before practicing in  
116 a setting where the collaborating physician is not continuously present. This limitation shall not  
117 apply to collaborative arrangements of providers of population-based public health services as  
118 defined by 20 CSR 2150-5.100 as of April 30, 2008.

119 10. No agreement made under this section shall supersede current hospital licensing  
120 regulations governing hospital medication orders under protocols or standing orders for the  
121 purpose of delivering inpatient or emergency care within a hospital as defined in section 197.020,

122 RSMo, if such protocols or standing orders have been approved by the hospital's medical staff  
123 and pharmaceutical therapeutics committee.

124 11. No contract or other agreement shall require a physician to act as a collaborating  
125 physician for an advanced practice registered nurse against the physician's will. A physician  
126 shall have the right to refuse to act as a collaborating physician, without penalty, for a particular  
127 advanced practice registered nurse. No contract or other agreement shall limit the collaborating  
128 physician's ultimate authority over any protocols or standing orders or in the delegation of the  
129 physician's authority to any advanced practice registered nurse, but this requirement shall not  
130 authorize a physician in implementing such protocols, standing orders, or delegation to violate  
131 applicable standards for safe medical practice established by hospital's medical staff.

132 12. No contract or other agreement shall require any advanced practice registered nurse  
133 to serve as a collaborating advanced practice registered nurse for any collaborating physician  
134 against the advanced practice registered nurse's will. An advanced practice registered nurse shall  
135 have the right to refuse to collaborate, without penalty, with a particular physician.

334.506. 1. As used in this section, "approved health care provider" means a person  
2 holding a current and active license as a physician and surgeon under this chapter, a chiropractor  
3 under chapter 331, RSMo, a dentist under chapter 332, RSMo, a podiatrist under chapter 330,  
4 RSMo, a physician assistant under this chapter, **an advanced practice registered nurse under**  
5 **chapter 335, RSMo**, or any licensed and registered physician, chiropractor, dentist, or podiatrist  
6 practicing in another jurisdiction whose license is in good standing.

7 2. A physical therapist shall not initiate treatment for a new injury or illness without a  
8 prescription from an approved health care provider.

9 3. A physical therapist may provide educational resources and training, develop fitness  
10 or wellness programs for asymptomatic persons, or provide screening or consultative services  
11 within the scope of physical therapy practice without the prescription and direction of an  
12 approved health care provider.

13 4. A physical therapist may examine and treat without the prescription and direction of  
14 an approved health care provider any person with a recurring self-limited injury within one year  
15 of diagnosis by an approved health care provider or a chronic illness that has been previously  
16 diagnosed by an approved health care provider. The physical therapist shall:

17 (1) Contact the patient's current approved health care provider within seven days of  
18 initiating physical therapy services under this subsection;

19 (2) Not change an existing physical therapy referral available to the physical therapist  
20 without approval of the patient's current approved health care provider;

21           (3) Refer to an approved health care provider any patient whose medical condition at the  
22 time of examination or treatment is determined to be beyond the scope of practice of physical  
23 therapy;

24           (4) Refer to an approved health care provider any patient whose condition for which  
25 physical therapy services are rendered under this subsection has not been documented to be  
26 progressing toward documented treatment goals after six visits or fourteen days, whichever first  
27 occurs;

28           (5) Notify the patient's current approved health care provider prior to the continuation  
29 of treatment if treatment rendered under this subsection is to continue beyond thirty days. The  
30 physical therapist shall provide such notification for each successive period of thirty days.

31           5. The provision of physical therapy services of evaluation and screening pursuant to this  
32 section shall be limited to a physical therapist, and any authority for evaluation and screening  
33 granted within this section may not be delegated. Upon each reinitiation of physical therapy  
34 services, a physical therapist shall provide a full physical therapy evaluation prior to the  
35 reinitiation of physical therapy treatment. Physical therapy treatment provided pursuant to the  
36 provisions of subsection 4 of this section may be delegated by physical therapists to physical  
37 therapist assistants only if the patient's current approved health care provider has been so  
38 informed as part of the physical therapist's seven-day notification upon reinitiation of physical  
39 therapy services as required in subsection 4 of this section. Nothing in this subsection shall be  
40 construed as to limit the ability of physical therapists or physical therapist assistants to provide  
41 physical therapy services in accordance with the provisions of this chapter, and upon the referral  
42 of an approved health care provider. Nothing in this subsection shall prohibit an approved health  
43 care provider from acting within the scope of their practice as defined by the applicable chapters  
44 of RSMo.

45           6. No person licensed to practice, or applicant for licensure, as a physical therapist or  
46 physical therapist assistant shall make a medical diagnosis.

47           7. A physical therapist shall only delegate physical therapy treatment to a physical  
48 therapist assistant or to a person in an entry level of a professional education program approved  
49 by the Commission for Accreditation of Physical Therapists and Physical Therapist Assistant  
50 Education (CAPTE) who satisfies supervised clinical education requirements related to the  
51 person's physical therapist or physical therapist assistant education. The entry-level person shall  
52 be under on-site supervision of a physical therapist.

334.613. 1. The board may refuse to issue or renew a license to practice as a physical  
2 therapist or physical therapist assistant for one or any combination of causes stated in subsection  
3 2 of this section. The board shall notify the applicant in writing of the reasons for the refusal and  
4 shall advise the applicant of the applicant's right to file a complaint with the administrative

5 hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue  
6 or renew a license to practice as a physical therapist or physical therapist assistant, the board  
7 may, at its discretion, issue a license which is subject to probation, restriction, or limitation to  
8 an applicant for licensure for any one or any combination of causes stated in subsection 2 of this  
9 section. The board's order of probation, limitation, or restriction shall contain a statement of the  
10 discipline imposed, the basis therefor, the date such action shall become effective, and a  
11 statement that the applicant has thirty days to request in writing a hearing before the  
12 administrative hearing commission. If the board issues a probationary, limited, or restricted  
13 license to an applicant for licensure, either party may file a written petition with the  
14 administrative hearing commission within thirty days of the effective date of the probationary,  
15 limited, or restricted license seeking review of the board's determination. If no written request  
16 for a hearing is received by the administrative hearing commission within the thirty-day period,  
17 the right to seek review of the board's decision shall be considered as waived.

18         2. The board may cause a complaint to be filed with the administrative hearing  
19 commission as provided by chapter 621, RSMo, against any holder of a license to practice as a  
20 physical therapist or physical therapist assistant who has failed to renew or has surrendered his  
21 or her license for any one or any combination of the following causes:

22             (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic  
23 beverage to an extent that such use impairs a person's ability to perform the work of a physical  
24 therapist or physical therapist assistant;

25             (2) The person has been finally adjudicated and found guilty, or entered a plea of guilty  
26 or nolo contendere, in a criminal prosecution under the laws of any state or of the United States,  
27 for any offense reasonably related to the qualifications, functions, or duties of a physical therapist  
28 or physical therapist assistant, for any offense an essential element of which is fraud, dishonesty,  
29 or an act of violence, or for any offense involving moral turpitude, whether or not sentence is  
30 imposed;

31             (3) Use of fraud, deception, misrepresentation, or bribery in securing any certificate of  
32 registration or authority, permit, or license issued under this chapter or in obtaining permission  
33 to take any examination given or required under this chapter;

34             (4) Misconduct, fraud, misrepresentation, dishonesty, unethical conduct, or  
35 unprofessional conduct in the performance of the functions or duties of a physical therapist or  
36 physical therapist assistant, including but not limited to the following:

37                 (a) Obtaining or attempting to obtain any fee, charge, tuition, or other compensation by  
38 fraud, deception, or misrepresentation; willfully and continually overcharging or overtreating  
39 patients; or charging for sessions of physical therapy which did not occur unless the services

40 were contracted for in advance, or for services which were not rendered or documented in the  
41 patient's records;

42 (b) Attempting, directly or indirectly, by way of intimidation, coercion, or deception, to  
43 obtain or retain a patient or discourage the use of a second opinion or consultation;

44 (c) Willfully and continually performing inappropriate or unnecessary treatment or  
45 services;

46 (d) Delegating professional responsibilities to a person who is not qualified by training,  
47 skill, competency, age, experience, or licensure to perform such responsibilities;

48 (e) Misrepresenting that any disease, ailment, or infirmity can be cured by a method,  
49 procedure, treatment, medicine, or device;

50 (f) Performing services which have been declared by board rule to be of no physical  
51 therapy value;

52 (g) Final disciplinary action by any professional association, professional society,  
53 licensed hospital or medical staff of the hospital, or physical therapy facility in this or any other  
54 state or territory, whether agreed to voluntarily or not, and including but not limited to any  
55 removal, suspension, limitation, or restriction of the person's professional employment,  
56 malpractice, or any other violation of any provision of this chapter;

57 (h) Administering treatment without sufficient examination, or for other than medically  
58 accepted therapeutic or experimental or investigative purposes duly authorized by a state or  
59 federal agency, or not in the course of professional physical therapy practice;

60 (i) Engaging in or soliciting sexual relationships, whether consensual or nonconsensual,  
61 while a physical therapist or physical therapist assistant/patient relationship exists; making sexual  
62 advances, requesting sexual favors, or engaging in other verbal conduct or physical contact of  
63 a sexual nature with patients or clients;

64 (j) Terminating the care of a patient without adequate notice or without making other  
65 arrangements for the continued care of the patient;

66 (k) Failing to furnish details of a patient's physical therapy records to treating physicians,  
67 other physical therapists, or hospitals upon proper request; or failing to comply with any other  
68 law relating to physical therapy records;

69 (l) Failure of any applicant or licensee, other than the licensee subject to the  
70 investigation, to cooperate with the board during any investigation;

71 (m) Failure to comply with any subpoena or subpoena duces tecum from the board or  
72 an order of the board;

73 (n) Failure to timely pay license renewal fees specified in this chapter;

74 (o) Violating a probation agreement with this board or any other licensing agency;



75 (p) Failing to inform the board of the physical therapist's or physical therapist assistant's  
76 current telephone number, residence, and business address;

77 (q) Advertising by an applicant or licensee which is false or misleading, or which  
78 violates any rule of the board, or which claims without substantiation the positive cure of any  
79 disease, or professional superiority to or greater skill than that possessed by any other physical  
80 therapist or physical therapist assistant. An applicant or licensee shall also be in violation of this  
81 provision if the applicant or licensee has a financial interest in any organization, corporation, or  
82 association which issues or conducts such advertising;

83 (5) Any conduct or practice which is or might be harmful or dangerous to the mental or  
84 physical health of a patient or the public; or incompetency, gross negligence, or repeated  
85 negligence in the performance of the functions or duties of a physical therapist or physical  
86 therapist assistant. For the purposes of this subdivision, "repeated negligence" means the failure,  
87 on more than one occasion, to use that degree of skill and learning ordinarily used under the  
88 same or similar circumstances by the member of the applicant's or licensee's profession;

89 (6) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling  
90 any person to violate, any provision of this chapter, or of any lawful rule adopted under this  
91 chapter;

92 (7) Impersonation of any person licensed as a physical therapist or physical therapist  
93 assistant or allowing any person to use his or her license or diploma from any school;

94 (8) Revocation, suspension, restriction, modification, limitation, reprimand, warning,  
95 censure, probation, or other final disciplinary action against a physical therapist or physical  
96 therapist assistant for a license or other right to practice as a physical therapist or physical  
97 therapist assistant by another state, territory, federal agency or country, whether or not voluntarily  
98 agreed to by the licensee or applicant, including but not limited to the denial of licensure,  
99 surrender of the license, allowing the license to expire or lapse, or discontinuing or limiting the  
100 practice of physical therapy while subject to an investigation or while actually under  
101 investigation by any licensing authority, medical facility, branch of the armed forces of the  
102 United States of America, insurance company, court, agency of the state or federal government,  
103 or employer;

104 (9) A person is finally adjudged incapacitated or disabled by a court of competent  
105 jurisdiction;

106 (10) Assisting or enabling any person to practice or offer to practice who is not licensed  
107 and currently eligible to practice under this chapter; or knowingly performing any act which in  
108 any way aids, assists, procures, advises, or encourages any person to practice physical therapy  
109 who is not licensed and currently eligible to practice under this chapter;

- 110           (11) Issuance of a license to practice as a physical therapist or physical therapist assistant  
111 based upon a material mistake of fact;
- 112           (12) Failure to display a valid license pursuant to practice as a physical therapist or  
113 physical therapist assistant;
- 114           (13) Knowingly making, or causing to be made, or aiding, or abetting in the making of,  
115 a false statement in any document executed in connection with the practice of physical therapy;
- 116           (14) Soliciting patronage in person or by agents or representatives, or by any other means  
117 or manner, under the person's own name or under the name of another person or concern, actual  
118 or pretended, in such a manner as to confuse, deceive, or mislead the public as to the need or  
119 necessity for or appropriateness of physical therapy services for all patients, or the qualifications  
120 of an individual person or persons to render, or perform physical therapy services;
- 121           (15) Using, or permitting the use of, the person's name under the designation of "physical  
122 therapist", "physiotherapist", "registered physical therapist", "P.T.", "Ph.T.", "P.T.T.", "D.P.T.",  
123 "M.P.T." or "R.P.T.", "physical therapist assistant", "P.T.A.", "L.P.T.A.", "C.P.T.A.", or any  
124 similar designation with reference to the commercial exploitation of any goods, wares or  
125 merchandise;
- 126           (16) Knowingly making or causing to be made a false statement or misrepresentation of  
127 a material fact, with intent to defraud, for payment under chapter 208, RSMo, or chapter 630,  
128 RSMo, or for payment from Title XVIII or Title XIX of the federal Medicare program;
- 129           (17) Failure or refusal to properly guard against contagious, infectious, or communicable  
130 diseases or the spread thereof; maintaining an unsanitary facility or performing professional  
131 services under unsanitary conditions; or failure to report the existence of an unsanitary condition  
132 in any physical therapy facility to the board, in writing, within thirty days after the discovery  
133 thereof;
- 134           (18) Any candidate for licensure or person licensed to practice as a physical therapist or  
135 physical therapist assistant paying or offering to pay a referral fee or, notwithstanding section  
136 334.010 to the contrary, practicing or offering to practice professional physical therapy  
137 independent of the prescription and direction of a person licensed and registered as a physician  
138 and surgeon under this chapter, as a physician assistant under this chapter, as a chiropractor  
139 under chapter 331, RSMo, as a dentist under chapter 332, RSMo, as a podiatrist under chapter  
140 330, RSMo, **as an advanced practice registered nurse under chapter 335, RSMo, in a**  
141 **collaborative practice arrangement under section 334.010 with a physician,** or any licensed  
142 and registered physician, chiropractor, dentist, or podiatrist practicing in another jurisdiction,  
143 whose license is in good standing;
- 144           (19) Any candidate for licensure or person licensed to practice as a physical therapist or  
145 physical therapist assistant treating or attempting to treat ailments or other health conditions of

146 human beings other than by professional physical therapy and as authorized by sections 334.500  
147 to 334.685;

148 (20) A pattern of personal use or consumption of any controlled substance unless it is  
149 prescribed, dispensed, or administered by a physician who is authorized by law to do so;

150 (21) Failing to maintain adequate patient records under 334.602;

151 (22) Attempting to engage in conduct that subverts or undermines the integrity of the  
152 licensing examination or the licensing examination process, including but not limited to utilizing  
153 in any manner recalled or memorized licensing examination questions from or with any person  
154 or entity, failing to comply with all test center security procedures, communicating or attempting  
155 to communicate with any other examinees during the test, or copying or sharing licensing  
156 examination questions or portions of questions;

157 (23) Any candidate for licensure or person licensed to practice as a physical therapist or  
158 physical therapist assistant who requests, receives, participates or engages directly or indirectly  
159 in the division, transferring, assigning, rebating or refunding of fees received for professional  
160 services or profits by means of a credit or other valuable consideration such as wages, an  
161 unearned commission, discount or gratuity with any person who referred a patient, or with any  
162 relative or business associate of the referring person;

163 (24) Being unable to practice as a physical therapist or physical therapist assistant with  
164 reasonable skill and safety to patients by reasons of incompetency, or because of illness,  
165 drunkenness, excessive use of drugs, narcotics, chemicals, or as a result of any mental or physical  
166 condition. The following shall apply to this subdivision:

167 (a) In enforcing this subdivision the board shall, after a hearing by the board, upon a  
168 finding of probable cause, require a physical therapist or physical therapist assistant to submit  
169 to a reexamination for the purpose of establishing his or her competency to practice as a physical  
170 therapist or physical therapist assistant conducted in accordance with rules adopted for this  
171 purpose by the board, including rules to allow the examination of the pattern and practice of such  
172 physical therapist's or physical therapist assistant's professional conduct, or to submit to a mental  
173 or physical examination or combination thereof by a facility or professional approved by the  
174 board;

175 (b) For the purpose of this subdivision, every physical therapist and physical therapist  
176 assistant licensed under this chapter is deemed to have consented to submit to a mental or  
177 physical examination when directed in writing by the board;

178 (c) In addition to ordering a physical or mental examination to determine competency,  
179 the board may, notwithstanding any other law limiting access to medical or other health data,  
180 obtain medical data and health records relating to a physical therapist, physical therapist assistant  
181 or applicant without the physical therapist's, physical therapist assistant's or applicant's consent;

(d) Written notice of the reexamination or the physical or mental examination shall be sent to the physical therapist or physical therapist assistant, by registered mail, addressed to the physical therapist or physical therapist assistant at the physical therapist's or physical therapist assistant's last known address. Failure of a physical therapist or physical therapist assistant to submit to the examination when directed shall constitute an admission of the allegations against the physical therapist or physical therapist assistant, in which case the board may enter a final order without the presentation of evidence, unless the failure was due to circumstances beyond the physical therapist's or physical therapist assistant's control. A physical therapist or physical therapist assistant whose right to practice has been affected under this subdivision shall, at reasonable intervals, be afforded an opportunity to demonstrate that the physical therapist or physical therapist assistant can resume the competent practice as a physical therapist or physical therapist assistant with reasonable skill and safety to patients;

(e) In any proceeding under this subdivision neither the record of proceedings nor the orders entered by the board shall be used against a physical therapist or physical therapist assistant in any other proceeding. Proceedings under this subdivision shall be conducted by the board without the filing of a complaint with the administrative hearing commission;

(f) When the board finds any person unqualified because of any of the grounds set forth in this subdivision, it may enter an order imposing one or more of the disciplinary measures set forth in subsection 3 of this section.

3. After the filing of such complaint before the administrative hearing commission, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that the grounds provided in subsection 2 of this section for disciplinary action are met, the board may, singly or in combination:

(1) Warn, censure or place the physical therapist or physical therapist assistant named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed ten years;

(2) Suspend the physical therapist's or physical therapist assistant's license for a period not to exceed three years;

(3) Restrict or limit the physical therapist's or physical therapist assistant's license for an indefinite period of time;

(4) Revoke the physical therapist's or physical therapist assistant's license;

(5) Administer a public or private reprimand;

(6) Deny the physical therapist's or physical therapist assistant's application for a license;

(7) Permanently withhold issuance of a license;

216 (8) Require the physical therapist or physical therapist assistant to submit to the care,  
217 counseling or treatment of physicians designated by the board at the expense of the physical  
218 therapist or physical therapist assistant to be examined;

219 (9) Require the physical therapist or physical therapist assistant to attend such continuing  
220 educational courses and pass such examinations as the board may direct.

221 4. In any order of revocation, the board may provide that the physical therapist or  
222 physical therapist assistant shall not apply for reinstatement of the physical therapist's or physical  
223 therapist assistant's license for a period of time ranging from two to seven years following the  
224 date of the order of revocation. All stay orders shall toll this time period.

225 5. Before restoring to good standing a license issued under this chapter which has been  
226 in a revoked, suspended, or inactive state for any cause for more than two years, the board may  
227 require the applicant to attend such continuing medical education courses and pass such  
228 examinations as the board may direct.

229 6. In any investigation, hearing or other proceeding to determine a physical therapist's,  
230 physical therapist assistant's or applicant's fitness to practice, any record relating to any patient  
231 of the physical therapist, physical therapist assistant, or applicant shall be discoverable by the  
232 board and admissible into evidence, regardless of any statutory or common law privilege which  
233 such physical therapist, physical therapist assistant, applicant, record custodian, or patient might  
234 otherwise invoke. In addition, no such physical therapist, physical therapist assistant, applicant,  
235 or record custodian may withhold records or testimony bearing upon a physical therapist's,  
236 physical therapist assistant's, or applicant's fitness to practice on the [ground] **grounds** of  
237 privilege between such physical therapist, physical therapist assistant, applicant, or record  
238 custodian and a patient.

✓